

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN GAY ANN MASOLO**, on February 16, 2001  
at 2:30 P.M., in Room 137B Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Gay Ann Masolo, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Bob Lawson, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Verdell Jackson (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Lehman (R)  
Rep. Jeff Mangan (D)  
Rep. Joe McKenney (R)  
Rep. John Musgrove (D)  
Rep. Alan Olson (R)  
Rep. Ken Peterson (R)  
Rep. Butch Waddill (R)  
Rep. Allan Walters (R)  
Rep. Merlin Wolery (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Nina Roatch, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 558, 2/12/2001; HB 557,  
2/19/2001; HB 60, 1/31/2001  
Executive Action: HB 31; HB 121; HB 427

**EXECUTIVE ACTION ON HB 31**

**Motion:** REP. OLSON moved that HB 31 DO PASS.

**Discussion:**

The **CHAIR** said she had researched the proper procedure to handle **HB 31** and **HB 121**. She does not want them to die in committee but realizes the committee is not in a position to do executive action on them. The committee must amend them and put the appropriation for the bill in each one and then postpone the hearing.

**Motion/Vote:** REP. MANGAN moved the **AMENDMENT TO HB 31, TO PLACE THE APPROPRIATION IN THE BILL DO PASS**. Motion carried unanimously.

**Motion/Vote:** REP. MCKENNEY moved to **POSTPONE ACTION ON HB 31 AS AMENDED, INDEFINITELY**. Motion carried unanimously.

**REPRESENTATIVE WOLERY** said that in the House Judicial Committee they were told that when a bill is postponed, after twenty-four hours it is a dead bill unless the committee postpones to a definite date.

**REPRESENTATIVE MANGAN** said the rules say, "to a date certain." He hasn't read the new rules and knows that committees have moved to postpone indefinitely.

**REPRESENTATIVE MCKENNEY** said he believes **REPRESENTATIVE MANGAN** is correct. It can be done both ways. It can be done to a date certain and it can be postponed indefinitely.

**EXECUTIVE ACTION ON HB 121**

**Motion:** REP. WOLERY moved that HB 121 DO PASS.

**Discussion:**

**Motion/Vote:** REP. MCKENNEY moved the **AMENDMENT TO HB 121, TO PLACE THE APPROPRIATION IN THE BILL DO PASS**. Motion carried unanimously.

**Motion/Vote:** REP. WALTERS moved to **POSTPONE ACTION ON HB 121 AS AMENDED, INDEFINITELY**. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 427**

**Motion:** REP. LEHMAN moved that HB 427 DO PASS.

**Discussion:**

A copy of the amendments were passed out. HB042701.ace

**Motion:** REP. LAWSON moved that AMENDMENTS TO HB 427 DO PASS.

**Discussion:**

Connie Erickson explained the amendments. The amendments were first presented by DPHHS at the hearing of the bill. Connie Erickson has cleaned them up. On the bottom of page 4, line 29, where they define a "residential treatment center," they define it as "a center that is licensed by the state as a youth care facility under 41-311-42 with the specific designation of a youth care facility-residential treatment center." In subsection 2 and 5 they just use the term "youth care facility." It should be "youth care facility-residential treatment center." That is what the bill is talking about. The term youth care facility is quite broad. It could include foster homes. We don't want to be requiring school departments to be entering into agreements with foster homes to offer educational services.

REPRESENTATIVE LAWSON said the SPONSOR of the bill is aware of the amendments and considers them friendly.

**Motion/Vote:** REP. LAWSON moved the AMENDMENTS TO HB 427 DO PASS.  
**Motion carried unanimously.**

**Motion:** REP. LAWSON moved that HB 427 DO PASS AS AMENDED.

**Discussion:**

REPRESENTATIVE MANGAN said this bill is the fourth bill of this type in the session. This is the first one that the committee has seen. There is one in Health and Human Services. What the legislature is attempting to do is add a couple of private programs who are serving children and apparently they can't afford to provide the educational component or they are within a community and the public school is providing the education. However, the school isn't receiving the funding because the students are coming from out of the district. There are a couple of bills floating around that could drastically change the numbers that are seen in this bill, if they are passed, and they fit under this residential treatment model. The number of programs could go up. It has a lot to do with Medicaid dollars

and making sure private plans are adequately funded, etc. The concern he has with this bill is that their educational rate is already in their daily costs. It is a "cross-your-fingers type of thing" that the rates change, if the education component is going to be paid by the state. He doesn't see that happening. It would be very hard for them to lower their daily rates. He would hope that they would, but he doesn't see it happening. If they looked, there's opportunities for them to contract with the schools. They have the dollars. They are charging for education right now. Why someone is having a problem paying for it is beyond him. He believes that many of them in that field are starting to feel a financial crunch because of the state's financial crunch and other things. He doesn't think this is the bill to address this particular concern. Swan Youth Academy has 48 beds and he isn't sure how many of the youth attending the school are from in state. The school takes out-of-state youth. Their daily rate is higher than Thresh Holds. That is his bottom line concern on the bill. He believes it is an issue of fairness and if the state wants to get into the business of subsidizing private programs without that assurance, there is the possibility of some double dipping. He isn't suggesting that any of the current programs would do that. He doesn't see assurances in the bill. If the folks that testified are added to the present program, they would not fit in the state's present medical behavioral model. Shodair and Children's Compensation Services are the two campuses in the state that are based on a hospital medical model with staff psychiatrists and staff physicians. They have internal programs and all services are onsite. Education is not part of their daily rate because it is funded through present statute. He believes this bill would have a big fiscal impact, particularly if other programs are passed. The state could be opening itself up to a huge fiscal arena and the committee is not sure where it is going. The question before the committee is, does it want to develop the policy based on behavior programs verses medical without knowing what the future of those programs is in the state. The programs are increasing and looking for funding in a variety of different sources. They are all fine, excellent programs, but this could be a potential Pandora's box without further investigation into what the ramifications are.

**REPRESENTATIVE OLSON** said the gentleman running the Brown School testified that they were receiving \$200 per day per student from the Department of Corrections and another \$70 a day per student from DPHHS. If they have an enrollment of 30 kids, they are receiving \$8100 a day. He can't understand why they can't run the program with that kind of money.

**REPRESENTATIVE LEHMAN** said that he thought Superintendent Cotton was concerned about the school district of residence for the

students being put on the hook. He asked if he was correct in that thought? **REPRESENTATIVE MANGAN** said yes. **REPRESENTATIVE LEHMAN** stated that he can't understand why, simply because of the school district's geographical location and the fact that there is a resident treatment facility center, the school district should be responsible for those students. He believes the adjudicating agency that sent the students to this center should be financially liable.

**REPRESENTATIVE MANGAN** said he had an answer to **REPRESENTATIVE LEHMAN**'s thoughts. We do have in other parts of the statute, for example, Juvenile Detention Centers, those education curriculum where they have teachers onsite who come to provide education for kids that stay longer than ten days. Those costs are actually paid by the district that sent the youth. It is a lot more complicated than that because kids may have jumped around, etc. A similar thing already is in place to meet his concern. That is for state sponsored curriculums, for example, Pine Hills and Riverside basically have their own ANB, almost like a district, for the kids that they serve. We are talking about non-state or private entities who are providing services. That is what this bill is addressing. It is addressing the private population. He doesn't believe all the sex offenders are from Deer Lodge. They may be accepting or trying to get educational services from Deer Lodge, he believes that is where the district is struggling. The question is, who pays for these kids? His answer, at this point, is it should be the program, if an educational rate is within their charge. The administrator said it was, when **REPRESENTATIVE MANGAN** asked him during the hearing. Therefore, **REPRESENTATIVE MANGAN** doesn't understand why the program isn't paying the school district for their services. He sees that as a possibility. The law hasn't addressed private programs in the law except for the medical models.

**REPRESENTATIVE GALVIN-HALCRO** asked **REPRESENTATIVE MANGAN**, if these private serving agencies are receiving a daily rate to educate these students, shouldn't the agency turn a portion of that rate over to the school district that they are within the jurisdiction of? **REPRESENTATIVE MANGAN** stated that he cannot speak for every program and he doesn't know if every program is including an educational component within their day rate. He believes that if the agency doesn't have an educational component in-house and they have charged for it, then they should be utilizing the dollars they included in the daily rate for education somewhere. He knows many programs have in-house.

**REPRESENTATIVE OLSON** said that he had notes that said the campus was charging \$65 to \$70 a day for education. He asked permission

to ask **Mr. Cooper** a question. What did Deer Lodge want out of this bill? **Mr. Cooper** said that **Superintendent Cotton's** district is currently supplying services to Brown School and they can charge for those services. However, the tuition cost is a year behind. What he understood **Superintendent Cotton** was asking for was putting more money into this so they could cover whatever costs they have in relationship to what they work out with Brown School for the first year. After that, they can receive tuition.

**REPRESENTATIVE OLSON** asked if this is strictly a voluntary arrangement between the school district and Brown School?

**Mr. Cooper** said it is an agreement which the two of them have entered into. It may be voluntary with the exception of the requirement to educate special education students. That may not be voluntary, he isn't sure about that part. **Bob Runkel** should be answering this question. **REPRESENTATIVE OLSON** asked if these students are not enrolled in the Deer Lodge Schools, do they still have the obligation to provide special ed services?

**Mr. Cooper** that the answer he would give would be a guess.

**REPRESENTATIVE ANDERSEN** asked if the Brown School is a school?

**REPRESENTATIVE MANGAN** said yes. **REPRESENTATIVE ANDERSEN** asked if they provide actual classes for their students? **REPRESENTATIVE**

**MANGAN** said yes, he believes they do. He is not 100% sure of that. **REPRESENTATIVE ANDERSEN** asked if the school is a private entity?

**REPRESENTATIVE MANGAN** said yes. **REPRESENTATIVE ANDERSEN** said she is a little familiar with Yellowstone Boys and Girls' Ranch treatment. To her knowledge, they provide everything for the youth on the campus. She asked if he knows that to be true?

**REPRESENTATIVE MANGAN** said yes. The school is one of the medical models also. **REPRESENTATIVE ANDERSEN** asked if that is where the difference lies?

**REPRESENTATIVE MANGAN** said in this particular case, yes. What this bill is asking us to do is add the new language "behavioral based programs" to programs which can be funded for education services through OPI.

The **CHAIR** said she was not present for the hearing but her understanding is that the bill is broadening it to include behavior children?

**REPRESENTATIVE JACKSON** asked **REPRESENTATIVE MANGAN** if the fiscal note in his possession was current? **REPRESENTATIVE MANGAN** said yes. **REPRESENTATIVE JACKSON** said he has a problem with the fiscal note assumptions and asked **REPRESENTATIVE MANGAN** to explain them. He said he was not clear on who is responsible for what. It appears to him that if the committee approves the bill, they will be taking on a statewide responsibility for all the kids in all the facilities. **REPRESENTATIVE MANGAN** said that today it would be limited. He believes that number, because of

some changes, could rise dramatically in the next couple of years. The answer to his question is yes.

The **CHAIR** asked what had happened to **REPRESENTATIVE FISHER's** bill? **REPRESENTATIVE MANGAN** said it is in Health and Human Services Committee. He had no idea what has happened to the bill.

**REPRESENTATIVE JACKSON** asked **REPRESENTATIVE MANGAN** what he thought would happen if the committee does not pass the bill. **REPRESENTATIVE MANGAN** said he would imagine it would be business as usual. He would encourage the Deer Lodge School District to enter into negotiations with Brown School to ensure that their costs are being covered.

The questioned was called for.

**Motion/Vote:** REP. LEHMAN moved that HB 427 DO PASS AS AMENDED. Motion failed 0-18.

**Motion/Vote:** REP. GALVIN-HALCRO moved that HB 427 AS AMENDED BE TABLED, by a reverse vote of 18-0.

#### HEARING ON HB 558

**Sponsor:** REPRESENTATIVE HOLLY RASER, HD 70, Missoula

**Proponents:** Bill Cooper, OPI  
Erik Burke, MEA-MFT  
Bob Vogel, MSAB

**Opponents:** None

#### **Opening Statement by Sponsor:**

**REPRESENTATIVE HOLLY RASER, HD 70, Missoula**, said her bill is a very simple housekeeping bill. It eliminates a total of seven words and replaces none of them. It is truly a bi-partisan bill because you can see it is sponsored by representatives of both parties and members of the Senate also. It will require nonpublic schools to notify the county superintendent of schools of which children are attending the nonpublic schools. That might raise some red flags. This bill is at the request of **A. J. Mickalety** who is the Superintendent of Schools of Yellowstone County. It was a result of some correspondence with **Karen Mullehan** the Title 6 Specialist with OPI. She said in her letter to the Superintendent of Schools that districts have an obligation if nonpublic schools, which are private and home

schools, within their boundaries want to participate in Title 6 or other federal programs. Schools are required by law to provide all federally funded programs to all children that live within a school district. The problem is that some nonpublic schools are not required to register. Home schools are required by law to register their students and that is to exempt them from the compulsory attendance policy set by the state. There is no requirement within the statute that requires private schools to do the same. In this particular county there were some private schools that were established that they weren't aware that they existed. It made it very difficult for them to notify the schools that there are these federally funded programs like IDEA, the special education programs, Title 1 programs, Title 6 programs, that were required to be offered. Mr. Mickalety worked with **Gale Gray** who is a former assistant superintendent in OPI. They came up with the cleanup bill that is being presented. Right now the requirements are that nonpublic schools maintain records on pupil attendance, immunization.... They must provide 180 days of pupil instruction, they must be housed in a building that complies with the health code and they must provide an organized course of study. The bill will add another requirement. They must notify the county superintendent of schools of the county which the school is located in each school fiscal year of the student's attendance at the school. That is to let the state know that all of our students are receiving education, whether in a public institution, a home school situation, or in a private institution. Also, by doing that, it will ensure there is a record with the county superintendent so she will have an avenue of communication with the schools so they can notify these private schools as they already can for home schools of the existence of federal programs in which they are entitled to participate. It is not adding any restrictions and it is not making schools do anything that they currently do not do. It is offering more services. It does nothing to home schools.

**Proponents' Testimony:**

**Bill Cooper, OPI**, said they rise in support of the amendment to the current bill. OPI uses the county superintendents to reach out in their county locales to identify schools so that OPI can make sure that the various federal programs, and there are many, are reaching all schools.

**Erik Burke, MEA-MFT**, said they support the bill and believe it is an excellent language cleanup for present statute.

**Bob Vogel, MSBA**, said they support the bill. The **SPONSOR** did an excellent job in explaining it.



**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REPRESENTATIVE LEHMAN** asked the **SPONSOR** about lines 21 and 22, it talks about notifying the county superintendent of schools in the county in which the school is located in each school fiscal year of the student's attendance at the school. How is "student's" interpreted? Is it the number of students? The **SPONSOR** said that she would interpret it as a singular noun, talking about the student's attendance. She would think it meant the bill wants to know about each person going to school. **REPRESENTATIVE LEHMAN** asked the **SPONSOR** if she was comfortable with the wording of the bill. The **SPONSOR** said yes.

**REPRESENTATIVE JACKSON** asked the **SPONSOR** about line 14. He feels that it is doing the same thing as lines 21 and 22. Is there is difference in the two locations? The **SPONSOR** deferred the question to **Connie Erickson**. She said, in subsection 1, it says that the school has to maintain the records on pupil attendance and disease and immunization. If the county superintendent requests those records, the school will provide them. If the county superintendent does not request them, the school is under no obligations to provide them. **REPRESENTATIVE JACKSON** said that a nonpublic school, right now, send their attendance to the superintendent of schools in the county where they are located. Does this bill change that? The **SPONSOR** said she could not see any language that would change that.

**Closing by Sponsor:**

**REPRESENTATIVE RASER** said she appreciated the thoughtful questions and asked that the committee support the bill.

**HEARING ON HB 557**

**Sponsor:** **REPRESENTATIVE TOM FACEY, HD 67, Missoula**

**Proponents:** **JJ Straight, Planned Parenthood/Rights Coalition**  
**Stacey Anderson, Montana NARAC**

**Opponents:** Sharon Hoff-Brodowy, Montana Catholic Conference  
Bob Vogel, MSBA  
Jon D. Berg, Parent  
Gary D. Swant, Deer Lodge

**Opening Statement by Sponsor:**

**REPRESENTATIVE TOM FACEY, HD 67, Missoula,** said that the first couple pages of the bill talks about the power and duties of the trustees. On page 3, the bills says they must file with OPI the curriculum used in their health enhancement program, which includes human sexuality courses. Section 2 of the bill, page 4, instructs OPI to have a file which is a curriculum guide to help school districts construct their health enhancement curriculum. One of the things that he appreciates about the bill is that it focuses on both human enhancement and human sexuality. On page 4, line 7, it refers to 23-03-324, which is a section about the superintendent and is a catch-all phrase. The bill asks that the OPI file be accurate and up-to-date. The bill discusses abstinence based which is important, but it also says any type of STD's should be included.

**Proponents' Testimony:**

**JJ Straight, Reproductive Rights Coalition, Intermountain Planned Parenthood,** said they support the bill for a few reasons. They know that in sexuality education there has been some instances in other states when studies have been done of school curriculums, there have been some dangerous and misleading information in the school curriculums. Her colleague in Missouri had called her and said a bill had been passed in Missouri mandating comprehensive sexuality education. What had helped with that bill was a couple of the districts, once they had discovered their curriculum, were actually teaching young ladies that one of the ways to prevent pregnancy was to douche with Clorox or Lysol. This was actually written in curriculum. In Nevada some of the health curriculum actually stated information from the 1940's. Her organizations are glad to know that they would be able to access the curriculums of schools so they would know that the children of Montana are not receiving misinformation like other states are. It is interesting to her that pregnant teenage girls come into their office not knowing their own anatomy. She wants young men and women to be taught about their own body in health class.

**REPRESENTATIVE LEHMAN** objected to where she had taken the discussion and that it did not pertain to the bill itself.

**Stacey Anderson, Montana NARAL**, submitted written testimony.  
**EXHIBIT** (edh39a01)

**Opponents' Testimony:**

**Bob Vogel, MSBA**, submitted written testimony. **EXHIBIT** (edh39a02)

**Erik Burke, MEA-MFT**, said they have several of the same reasons to be opposed to the bill. They do appreciate **REPRESENTATIVE FACEY** bringing the bill forward and talking about the need for human sexuality education in the schools. They do oppose it based on two large objections, ones they have consistently objected to. They believe that curricular issues are the responsibility of local board of trustees and the Montana Board of Public Education. This bill comes dangerously close to prescribing curriculum materials from the state level. They are concerned about an unfunded mandate law. There is a "must" in the bill.

**Sharon Hoff-Brodowy, Montana Catholic Conference**, stated that the intent of the bill is legitimate and honorable. They are concerned about the language where it talks about the medically accurate objective and factual information. It is well known that abstinence is not going to allow pregnancy. She doesn't know how much more factual one can get than that. The other thing they are concerned about is that there be no referral to or information about abortion. Often times people do use abortion as a means of contraceptive. They understand about curriculum requirements and mandates to local communities.

**Gary Swant, Deer Lodge**, submitted written testimony.  
**EXHIBIT** (edh39a03)

{Tape : 1; Side : B}

**Jon Berg, Helena**, submitted written testimony. **EXHIBIT** (edh39a04)

**Informational Testimony:**

**Rick Chiotti, OPI**, said the intent of the bill is good and does support abstinence but not to the exclusion of factual information on disease prevention. **HB 557** would create a repository curricula at OPI. School districts do share such curriculum at present and OPI does have curriculum guides or information, including a model health enhancement for grades K-12 available for school use. They have distributed these materials to all schools. OPI does have information on evaluated, medically accurate, scientifically sound and commercially available curricula and makes it available to schools. The need

for a health and sexuality file is not necessary. **HB 557** uses the term "medically accurate," which is a serious and important item and is more appropriate for public health since they have the medical expertise on staff to make definitive determinations on what is "medically accurate." **HB 557** would have a fiscal impact. OPI would need to hire additional staff to review the information submitted from all the schools to ensure that the information contains the topic areas mentioned in the bill and to continually review and revise materials the schools may send in. OPI staff would need to work closely with the Department of Public Health medical staff to get medical staff verification on the medical accuracy on all the materials.

**Questions from Committee Members and Responses:**

**REPRESENTATIVE LEHMAN** asked **Mr. Bill Cooper, OPI**, are school districts required now to file the information on their curriculum with your office? **Mr. Cooper** said no.

**REPRESENTATIVE JACKSON** asked **Mr. Berg** about the psychological aspects of being explicit with classes. The Representative believes this destroys a child's modesty. He asked if **Mr. Berg** had found this to be true in his counseling. **Mr. Berg** said that one of the purposes of the abstinence until marriage philosophy and programs is to protect the natural boundaries that children have and to make sure that materials are not started at too young an age with sexually explicit materials that the safer sex movement has and does think should be started at a very young age with kids. **REPRESENTATIVE JACKSON** said during his campaign he talked to a physical education teacher who was teaching a sex education course. He found out that it was done in a mixed class. He wanted to know if that is more damaging than separating the boys from the girls for the class. **Mr. Berg** said that is one of the tenants of the abstinence until marriage program. They try to split classes when they can, especially at a young age. It is sometimes very difficult for school to do this. It is encouraged, when possible, to separate the sexes.

**REPRESENTATIVE PETERSON** had a question for the **SPONSOR**. Does this bill, in your estimation, require that all schools, whether it be public schools, private schools or home schools, have a human sexuality course? The **SPONSOR** said certainly not. Every school district determines its own curriculum. This bill does nothing towards directing them to have any type of curriculum. **REPRESENTATIVE PETERSON** asked if the intent of the bill is to have OPI have the opportunity to dictate the nature of the human sexuality courses. The **SPONSOR** said no. There are two parts. One directs the school trustees to file their curriculum with OPI. The second part is to require OPI to have a file which

schools may use as a resource to build their curriculum if they wish. **REPRESENTATIVE PETERSON** said he sees that the bill indicates that the unfunded mandate law is superceded. He doesn't see anything in the bill as to why this is true. The **SPONSOR** handed out a copy of a page from statutory construction with a highlighted section. **EXHIBIT (edh39a05)** This is the unfunded mandate. He believes the handout shows that this does not qualify as an unfunded mandate. OPI says they already have this file in hand. **REPRESENTATIVE PETERSON** asked the **SPONSOR** to explain the intent of the bill. The **SPONSOR** said he wants to let parents know what is being taught in the schools. He thought districts had to tell OPI what they are teaching in every subject. If schools need help in determining what they want in their curriculum, he wanted OPI to help them. The OPI file would not dictate, it would provide information which the schools could use to dictate their own community choices.

**REPRESENTATIVE MANGAN** had a question for **Mr. Chiotti**. Did you say that OPI has a human sexuality curriculum? **Mr. Chiotti** said OPI has a great deal of help in health enhancement curriculum. Within health enhancement there are about twelve component areas. One of those would be human sexuality. BPE establishes that schools will have a health enhancement program. The content of that program is up to the local district. A local district may include a human sexuality information or it may not.

**REPRESENTATIVE MANGAN** asked how many school districts presently use an abstinence curriculum? **Mr. Chiotti** said that in a survey done by OPI in September 2000 for BPE to look at the status of sex education, they found that 88% of Montana schools are currently teaching abstinence based education.

**REPRESENTATIVE MANGAN** asked **Mr. Berg**, do the programs he is familiar with teach or provide resources on teen pregnancy? **Mr. Berg** said there are many different curriculum available. Some provide statistics on teen pregnancy and contraceptives and some don't. When people say that the program does not talk about contraceptives, that is incorrect. They talk in light of the failure rates and that it is high risk to use contraceptives.

**REPRESENTATIVE MANGAN** asked if the program goes into resources if the youth becomes sexually active and wants to obtain information about contraceptives? If a youth doesn't choose abstinence, does the curriculum give them an idea of what is available to them so they don't become teen parents or receive STD's, regardless of what your opinion is on contraception? **Mr. Berg** said it depends on the program. Some of them do include discussions on contraceptive so that they can learn about contraceptives. It is not encouraged use. **REPRESENTATIVE MANGAN** said that of the 88% of Montana schools teaching abstinence, what percent of those include resources on available contraception or teen pregnancy?

**Mr. Berg** said he doesn't know, but that the statistic of 88% is abstinence based and not abstinence until marriage.

**REPRESENTATIVE JACKSON** asked **Mr. Chiotti** how practical it would be for OPI to have the type of material needed for human sexuality curriculum to share with schools. **Mr. Chiotti** said that he is correct about OPI having all the materials needed for schools. Programs can be very lengthy. OPI would have a problem having all the necessary materials on hand in a file. The file he has referred to is actually a master health enhancement curriculum. It includes many areas of physical activity.

**Closing by Sponsor:**

**REPRESENTATIVE FACEY** said public schools need public support and for that to happen, parents need to know what is happening in the school. In some ways, he believes the bill is more about a parent's right to know what is in the curriculum and that can go both directions. Parents should have the knowledge and the ability to challenge the curriculum. Being medically accurate is a legitimate concern and needs to be included in the bill. This is a local issue for the local school board. There was no fiscal note and he does not feel there is an unfunded mandate.

**EXECUTIVE ACTION ON HB 31**

**REPRESENTATIVE MANGAN** said he and **REPRESENTATIVE MC KENNEY** had discussed the committee's action on **HB 31** and **HB 121** with **REPRESENTATIVE SLITER** and they believe the committee did not handle the bills correctly, so they wish to do so now. He suggests that the committee postpone executive action until a date certain, maybe once a week until the appropriation on the bills is available. Procedure wise, the committee will have to do this.

**Motion/Vote:** **REP. MANGAN** moved **TO RECONSIDER HB 31**. Motion carried unanimously.

**Motion/Vote:** **REP. MANGAN** moved **TO POSTPONE ACTION ON HB 31 UNTIL MARCH 2**. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 121**

**Motion/Vote:** **REP. MANGAN** moved **TO RECONSIDER HB 121**. Motion carried unanimously.

**Motion/Vote:** **REP. MANGAN** moved **TO POSTPONE ACTION ON HB 121 UNTIL MARCH 2**. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 558**

**Motion:** REP. OLSON moved that HB 558 DO PASS.

**Discussion:**

**REPRESENTATIVE ANDERSEN** asked, as she reads the bill, if the home school are taken out, the language that is stricken, does that mean that home schools do not have to report their attendance for their children? **REPRESENTATIVE MASOLO** said no.

**REPRESENTATIVE MANGAN** said he does not believe home schools currently need to be housed in a building that complies with applicable local health and safety regulations. By striking the initial language, he believes it was the intent of the original language for individuals that home school their children that they don't have to fall into every regulation. Their requirement is to report to the county superintendent in the case of number 5. It is his concern if the language in number 5 is stricken, it will create serious problems. He believes that could potentially open up 1 - 4 to apply to home schools and he knows that was not the intent of those involved with the bill.

**REPRESENTATIVE PETERSON** said he wanted to point out what is written on line 13 of the bill. It has not changed, so if it is not correct, the present law is not written correctly. By taking out the language, you include home schools and private schools.

**Mr. Cooper** was asked to comment on the wording. On the surface, unless one goes back up to line 13, it would be a concern. The way it is written and the way it is crossed out would still require home schools to report their attendance like they do now.

**REPRESENTATIVE MANGAN** stated his concern is that it adds 1 - 4. He does not believe that individuals who home school their children should be housed in a building that complies with local health and safety regulations. He does not want someone to take this so literally that home school people believe the legislature is trying to make it difficult for them to run their program. That is always a concern of individuals who do home school their children.

**Connie Erickson** said the law is the way it is. Home schools and nonpublic schools are required to do all those things currently. The issue is, is there is no enforcement mechanism if they do not do it. Unless someone brings it to the attention of the county

superintendent, the county superintendent doesn't have any authority to do anything about it. Probably the county superintendent sends out a notice each year about what is to be done. If the schools in question comply, they do. If they don't, there is little that can be done about it. By changing the wording, the committee is not opening up home schools to anymore requirements than they are already required to follow in current law.

The **CHAIR** asked the committee to put off the action to a later date.

**REPRESENTATIVE OLSON** withdrew his motion.

#### **HEARING ON SB 60**

**Sponsor:** **SENATOR BEA MCCARTHY, SD 29, Anaconda**

**Proponents:** **Joyce Scott, OCHE**  
**Jeff Hindoin, Governor's Office**

**Opponents:** None

#### **Opening Statement by Sponsor:**

**SENATOR BEA MCCARTHY, SD 29, Anaconda,** said her bill is an act approving the Compact For Education established for the Education Commission of the state providing for the appointment of seven commissioners for the state of Montana and providing an executive state. What is the Education Commission of the state? It is a nonprofit, nationwide interstate compact whose primary purpose is to help governors, state legislatures, state education leaders and others develop policies to improve public education at all levels. ECS's status is a bi-partisan organization involving key leaders from all levels of the education system to create unique opportunities to build partnerships, share information and promote the development of policy based on the best available research and strategies. Currently it is in 49 states, Montana would make it 50, which is what she is hoping for. The people that are involved in this program are not only state legislatures, they are school administrators on all levels, they are higher education, they are college presidents. What this group does, they are staffed out of Denver, Colorado, and they provide information to the staff here in Montana, workshops around the United States and any type of information that will help with education. The financial support for it comes through grants and foundations from various corporations and the federal government. States do have fees, but Montana's fees have been



waived. They have checked and rechecked this. She has the governor's office present to verify that there are no fees. She became acquainted with them last year when a member of the budget office invited one of their individuals to a presentation to the interim education committee. An interesting presentation was given and at the end of it, they invited anyone available to attend their yearly meeting in St. Paul. She was able to attend. They asked her to carry legislation to bring Montana into the group. At various times over the years, many Montana individuals had taken part in their workshops. They had conducted a workshop in Billings for educators throughout the state. Montana did not pay any of the funds to finance the workshop in Billings which was held in connection with Eastern Montana College. The current governor has attended one of their workshops. They cover various topics in education that are a concern to everyone. For that reason, she would like approval of the bill. There are some amendments.

**Proponents' Testimony:**

**Jeff Hindoin, Governor's Office,** said he can confirm **SENATOR MCCARTHY's** understanding of Montana's not having a financial tag that goes along with the bill. Recently the organization has been collaborating with the Western Governor's Association, National Governor's Association. From his perspective it will allow Montana to access more of the information over the next couple years to see what benefit can be brought back to the state. The amendments are to conform to the language in the compact, the uniform portion, with section 2, page 7, lines 7 and 8. That is the uniform portion of the law that sets out the composition of each "commission at the state level" is. It indicates one must be the government, two must be members of the legislature and four must be appointed by and serve at the pleasure of the governor. As the bill was originally structured, in section 2 on page 7, we actually have legislatively appointed the state superintendent which he believes is entirely appropriate. The first three amendments are designed to acknowledge in article 3, one member will be the governor, two will be appointed by the legislature, one will be the state superintendent and three will be appointed by the governor. Amendment 4 is simply to make the last portion of the statute consistent with the uniform provision, in that the commissioners appointed by the legislature serve for a term in a manner dictated by the legislature. The governor's appointees will serve at the pleasure of the governor.

**Joyce Scott, Deputy Commissioner from the OCHE**, stated they rise in support of the bill. Both Commissioner Croft and Ms. Scott have been involved with the Education Commission of the States from other states and universities and find the policy studies and seminars which they do to be particularly useful as a way of keeping up to date on many of the issues that are confronting education at all levels. Several years back the Education Commission of the States had a number of important studies and policy seminars on the changing conditions in teacher education and she found them very beneficial.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REPRESENTATIVE PETERSON** had a question for **Jeff Hindoin**. It is his understanding that if it is a compact in the true compact, we don't have any power to amend the language of the compact itself. Is that true? **Mr. Hindoin** said based on his discussions with **SENATOR MCCARTHY**, that was his original understanding. Based on her discussions with ECS people, as long as it is in substantially the form as follows in the heading, they will allow Montana to tinker with the compact, so to speak. It is not as ironclad as had been thought. The Representative's line of thinking was the way **Mr. Hindoin** was looking at it before they told him differently. **REPRESENTATIVE PETERSON** said they had a compact in judiciary the other day and it was emphasized very strongly that they could not amend the compact itself. Maybe this isn't a true compact.

**REPRESENTATIVE LAWSON** asked **Jeff Hindoin** why the membership in ECS is free to Montana? It is his understanding that in the past years one of the reasons Montana did not belong was the cost of membership. **Mr. Hindoin** said he does not know why the offer has been made. He has talked to Idaho people and knows that they are spending money on the organization membership. The **SPONSOR** said they presented as a freebie because they want Montana to be part of the group.

**REPRESENTATIVE OLSON** asked **Mr. Cooper** to give him some insight into on **REPRESENTATIVE PETERSON's** comments. **Mr. Cooper** said he cannot, but if **REPRESENTATIVE PETERSON** is correct and the compact cannot be changed, OPI would not favor the bill. It would have a seat at the table for the state superintendent.

**Closing by Sponsor:**

**SENATOR MCCARTHY** said Montana was given lots of latitude in writing the bill and they were told that they could change both

the composition of the group of seven members from the beginning. They were very open, with the fact that they want Montana in the organization. She can only represent what she has been told. If the bill is passed, she asks that the **CHAIR** carry it on the floor.

**ADJOURNMENT**

Adjournment: 4:25 P.M.

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REP. GAY ANN MASOLO, Chairman

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NINA ROATCH, Secretary

GM/NR

**EXHIBIT** (edh39aad)